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HOUSE BILL 742

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Ted Hobbs

AN ACT

RELATING TO TAXATION; AMENDING A SECTION OF THE GROSS RECEIPTS
AND COMPENSATING TAX ACT PERTAINING TO SALE OF CERTAIN SERVICES
TO OUT-OF-STATE BUYERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-9-57 NMSA 1978 (being Laws 1969,
Chapter 144, Section 47, as amended) is amended to read:

"7-9-57. DEDUCTION--GROSS RECEIPTS TAX--SALE OF CERTAIN
SERVICES TO AN OUT-OF-STATE BUYER. --

A. Receipts from performing a service may be
deducted from gross receipts if the sale of the service is made
to an out-of-state buyer who delivers to the seller either an
appropriate nontaxable transaction certificate or other
evidence acceptable to the secretary that the buyer is out of
state, unless the buyer of the service or any of the buyer's

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1 employees or agents makes initial use of the product of the
2 service in New Mexico or takes delivery of the product of the
3 service in New Mexico.

4 B. Receipts from performing a service that
5 initially qualified for the deduction provided in this section
6 but that no longer meets the criteria set forth in Subsection A
7 of this section shall be deductible for the period prior to the
8 disqualification.

9 C. For purposes of this section:

10 (1) "delivery of the product of the service"
11 means an identifiable act performed by the seller conveying the
12 product of the service into the actual or constructive
13 possession or control of the buyer or the buyer's employee or
14 agent; and

15 (2) "initial use of the product of the
16 service" means the performance of an identifiable activity by a
17 buyer or the buyer's employee or agent that first employs the
18 product of the service for its intended purpose and does not
19 include the following activities:

20 (a) observation of tests conducted by
21 the performer of services;

22 (b) participation in progress reviews,
23 briefings, consultations and conferences conducted by the
24 performer of services;

25 (c) review of preliminary drafts,

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1 drawings and other materials prepared by the performer of the
2 services;

3 (d) inspection of preliminary prototypes
4 developed by the performer of services; or

5 (e) similar activities."

6 Section 2. EFFECTIVE DATE. --The effective date of the
7 provisions of this act is July 1, 2003.

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